

REMARKS

Response to Restriction Requirement

Applicant hereby confirms the election of Group I, claims 1-40, without prejudice and with traverse, as discussed with the Examiner in an Interview on April 10, 2001. Applicants note that Paragraph 5 of the Office Action states, incorrectly, that election was made "without traverse", rather than correctly stating that the election was made "without prejudice".

Objection to the Specification

The specification has been amended, in accordance with the suggestions in the Office Action, to remove the incorporation by reference of material in a hyperlink. The material incorporated by reference is now an iButton manual for the commercially available iButton device, which manual is made of record in the Information Disclosure Statement filed concurrently herewith, and a copy of which is enclosed with this Response. As evidenced by the date, 08/12/97, at the bottom of the manual so incorporated, this manual is that which was reachable at the hyperlink set forth in the specification as filed, and, as such, does not constitute new matter.

Claim Rejections Pursuant to 35 U.S.C. 102(b)

Claims 1, 3-6, 17-18, and 21-23 stand rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 5,696,488, issued to Assisi.

The Office Action states that, pursuant to 35 U.S.C. 102(b), Assisi discloses a system having a device for storing retrieval information relating to a deceased person comprising a computer having a memory device permanently affixed to an object at the cemetery, wherein memorial information resides on the weather resistant memory device; a portable memory reading device, separate from the memory device, that retrieves the memorial information.

As further stated in the Office Action, Assisi teaches a transmitter/receiver connected to the memory device via a data cable (shown as element 4 in FIG. 1 of Assisi). This transeiver "is provided...in the cemetery" (see col. 1, lines 32-34), and allows electronic communication between the storage device and the reading device (see col. 1, lines 34-37). Thus, no transeiver in Assisi is portable, and the transeiver of Assisi is not part of the reading device. The portable reading device of Assisi must be "brought into the vicinity of the transmitter/receiver device", rather than into the vicinity of the storage device, in order to make the teaching of Assisi operable (see col. 1, lines 55-56). Further, as illustrated in FIG. 1 of Assisi, this non-portable transeiver must be connected via a data cable to the memory device at the grave site, and, as such, is separate and apart from the memory device. This separate transeiver is permanently affixed at the grave site, but the storage device of Assisi is not so permanently affixed. Without a single, non-portable transeiver permanently affixed at the remote location, separate from, and connected via data cable to, the storage device, the reading device of Assisi would not be enabled to communicate with the storage device (see col. 1, lines 32-38 and lines 55-58, and claim 1).

In contrast to the teaching of Assisi, the independent claims 1, 9, 24, and 28 of the present invention have been amended to clarify that the portable reader of the present

invention directly communicates with the memory device, rather than necessitating the use of a data cable connection between a transeiver and the storage device as taught in Assisi, as explained at page 6, lines 5-18 of the instant application, for example. This clarifies that the present invention need not make use of a transeiver, and, wherein a transeiver is present, one transeiver of the present invention would be present as an included part of the portable reading device, and a second transeiver would be present as an included part of the memory device, in order to effectuate "direct" communication between the portable reader and the memory device. This stands in direct contrast to the teaching of Assisi, wherein there is employed a single transeiver, separate from the reader and the memory device, as an indirect go-between for the memory device and the reader. Thus, in contrast to Assisi, no transeiver of the present invention is a device separate from and connected to the memory device as well as a device separate from the portable reading device, nor is any transeiver of the present invention permanently affixed at the remote location apart from the memory device.

Therefore, an advantageous element of the present invention provided by the portable reading device directly communicating with the storage device is the elimination of the need for devices to be located at the remote location apart from the storage device. This presence of only the storage device at the remote location contributes to the robustness of the system, as fewer elements of the system are exposed to weather and other factors that may cause wear or breakdown.

Therefore, it is respectfully submitted that employment of direct communication between the memory device and the portable reading device, as set forth in each of the amended independent claims, is not anticipated by Assisi.

The dependent claims conform to the amended independent claims 1, 9, 24, and 28. Thus, Applicant submits that the dependent claims are also not anticipated by Assisi pursuant to Section 102(b), for the reasons discussed hereinabove, and, more particularly, because the independent claims from which the dependent claims depend are not anticipated by Assisi.

Claim Rejections Pursuant to 35 U.S.C. 103(a)

Claims 2, 7-16, 19-20, and 24-40 stand rejected pursuant to 35 U.S.C. 103(a) as obvious over Assisi.

As to the rejection pursuant to 35 U.S.C. 103(a), Applicant submits that the type of information stored on the memory device is a part of the structure of the device, and is not merely a functional limitation. Applicants submit that it is apparent to one of skill in the art that a memory device comprises the physical storage mechanism and the structure of the data stored therein. Consequently, the holding of *Ex parte Masham* is not applicable to the claims 2, 7-16, 19-20, and 24-40 as to the data structure comprising the information stored on the memory device.

Further, the Office Action fails to cite a reference teaching the storage of the several types of information taught in the present invention, other than the information about a deceased party in Assisi, on a memory device that is then accessed by a portable reading device. In light of the fact that, as stated hereinabove, varying the data structure on a memory device is not obvious, and is not merely a functional limitation, Applicant submits that a prima facie case for obviousness has not been made without citation of a reference or references teaching the data structures taught in the instant application.

Therefore, it is respectfully submitted that the present invention is not obvious in light of the teachings of Assisi

New Claim 55

Applicant submits that new claim 55 is patentable over Assisi, in light of the distinctions discussed hereinabove, and is supported generally by the specification as filed.

Conclusion

Applicant has amended the Claims in a diligent effort to place the application in condition for allowance, and a Notice of Allowance for Claims 1-40, and 55 is respectfully requested.

Respectfully submitted,



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